

REMARKS

The present amendment is responsive to the Office Action mailed in the above-referenced case on February 09, 2005. Claims 1-34 are standing for examination. Claims 1-34 are rejected under 35 U.S.C. 101. Claims 1-34 are also rejected under 35 U.S.C. 112, first paragraph, twice. Claims 1-34 are rejected under 35 U.S.C. 102(e) as being unpatentable over Humpleman (US 6,546,419B1) hereinafter Humpleman. Claims 1-34 are also rejected under 35 U.S.C. 103(a) as being obvious over Humpleman.

The Applicant has carefully noted and reviewed the rejections, reference and the Examiner's comments. Applicant herein presents arguments to clearly show the reference of Humpleman clearly fails to teach the subject matter of applicant's claims as alleged by the Examiner. The arguments also show that some of the rejections are simply not valid.

Applicant points out that this is the third response submitted by the applicant to the Examiner's rejections and comments. Applicant is clearly concerned that the Examiner does not understand the present invention and how it applies in the known art, in view of the rejections and references relied upon by the Examiner in the present and previous rejections. In the first Office Action the Examiner rejected claims 1 and 19 under 112, second paragraph stating that a software application distributed on at least the first and second server-nodes is not described in the specification. In the second Office Action the Examiner asserted a double patenting rejection which was not valid. In the present Office Action the Examiner is attempting to make a 101 rejection stating that the present invention is inoperative and therefore lacks utility, and further provides two separate 112 rejections relying on the same reasoning. Frankly, applicant believes that if an Examiner makes a reasonable attempt to understand an invention being rejected, the above types of structural rejections would be settled before the third round of prosecution.

Further, in the present Office Action the Examiner asserts a 103 rejection with applicant's claims being obvious over Humpleman without giving any reasoning for the case of obviousness which is required by MPEP when rejecting an application under 103.

Applicant, therefore, will not be able to respond to the 103 rejection by the Examiner, instead electing to show the 102 rejection relying on Humpleman has no basis, thereby negating the 103 rejection.

Regarding the 101 rejection of claims 1-34, the Examiner states that the disclosed invention is inoperative and therefore lacks utility. (Claim 1 discloses: a network obtained agent status before contact with agent). Applicant points out to the Examiner the preamble of claim 1 which clearly recites:

" A network-based system for enabling users of the system to obtain current agent-status information related to agents of an information-source facility connected to the network before initiating contact with the agent or agents of the information-source facility comprising:"

Clearly the above portion of claim 1 shows that the agents are, in fact, connected to the network. Claim 19 recites that the agents are connected to the network also; therefore the Examiner's 101 rejection is completely without merit.

Regarding the first 112 rejection, the Examiner states that the claimed invention is not supported by either "a network obtained agent status before contact with agent" asserted utility or well established utility for the reasons set forth in the 101 rejection. Applicant believes the Examiner does not understand the claim language as presented in applicant's claims. Users of the claimed system, as taught in the disclosure and specified in applicant's claims, communicate with a server on the same network the agents are connected to, request status information of the connect agent(s) before initiating contact with an agent. The invention teaches how an outside user accesses current agent information of the system. The invention does not concern itself with how the status information of connected agents get stored in the server. It is well known in the art that agent status information is stored in network-based information-source facilities for the purpose of routing calls. Any person with skill in the telecommunications art understands that this is notoriously well known. Applicant also does not claim how the hardware elements of the invention are fastened together, or how the software is written for the invention. What the Examiner is objecting to falls into the same category. Therefore, the

101 rejection and both of the 112 rejections fail, as applicant adequately teaches what is claimed in the invention to enable one with skill in the art to make or use the invention.

Regarding the 102 rejection the Examiner reproduces applicant's claim 1, word for word, and then lists column numbers and line numbers of Humpleman which supposedly read on the claim. Unfortunately, the Examiner gives no explanation of how he/she believes the referenced teaching of Humpleman reads on applicant's claims. In reading the portions of Humpleman evidently relied upon, there is little or no relationship between Humpleman and the claimed invention.

Applicant points out that Humpleman is an invention for home-networking various residential appliances and applicant questions whether the art is even analogous to the present invention in question. Humpleman solves the problems of providing dynamic control and command of devices in a home network, such as a VCR and a personal computer. Humpleman teaches an ability to control a plurality of diverse devices having different capabilities to communicate with each other in order to accomplish tasks or provide a service and to provide the ability for various software applications to automatically command and control other various software applications, wherein said software applications can be located in different network devices.

Applicant argues that one with skill in the art would not look to the art of Humpleman to create a network-based system for enabling users of the system to obtain current agent-status information related to agents of an information-source facility connected to the network before initiating contact with the agent or agents of the information-source facility, as claimed in applicant's invention.

Further, absolutely no where in the art of Humpleman is there any remote teaching of a user accessing the network to obtain current agent-status information related to agents of an information-source facility connected to the network before initiating contact with the agent or agents of the information-source facility. Applicant simply cannot argue further against Humpleman because the Examiner, in the rejections of claims 1 and 19, failed to provide any explanation for the rejection and, unfortunately, it is not apparent to the applicant how the art applies by reading the portions of Humpleman pointed out by the Examiner. Applicant does not understand how Humpleman's ability to

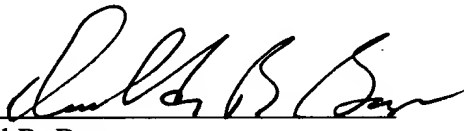
control networked home appliances could possible read on applicant's claimed invention.

Applicant believes that claims 1 and 19, as argued, are clearly patentable over the art of Humpleman because the Examiner has not made a proper prima facie case of rejection. Claims 2-18 and 20-34 are patentable on their own merits, or at least as depended from a patentable claim.

As all of the claims left standing and as amended are clearly shown to be patentable over the art presented by the Examiner, applicant respectfully requests that the rejections be withdrawn and that the case be passed quickly to issue.

If any fees are due beyond fees paid with this amendment, authorization is made to deduct those fees from deposit account 50-0534. If any time extension is needed beyond any extension requested with this amendment, such extension is hereby requested.

Respectfully Submitted,
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